IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 74 OF 2003

IN

SUMMARY SUIT NO. 2546 OF 2002

Naagree Chemicals & Tar Products .. Plaintiff

versus

KMS Export Pvt.Ltd & ors. .. Defendants

...

Mr.S.Y. Thorat for the plaintiff.

Mr.K.K. Jadhav for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 17th January 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. This Summons for Judgement is taken out against the defendant nos.1 and 2 by the plaintiff. It is alleged by the plaintiff that the defendant nos.1 and 2 placed order on the plaintiff for supply

of the goods to the defendant no.3. The goods were supplied to the defendant no.3 and therefore, defendant nos.1 and 2 are liable to make the payment. The suit has already been decreed against the defendant no.3. There is a denial by the defendant nos.1 and 2 that the order was placed by them and that they had agreed to make the payment. There is no written order produced on record.

3. In the circumstances, suit involves disputed questions of fact. The defence by the defendant nos.1 and 2 cannot be said to be frivolous or illusory. In the circumstances, the defendant nos.1 and 2 are granted unconditional leave to defend the suit. The defendant nos.1 and 2 to file written statement within a period of five weeks.

4. Suit shall stand transferred to the list of commercial causes.

D.G. KARNIK, J